Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Section 255 of the	)	
Telecommunications Act of 1996	)	
	)	WT Docket No. 96-198
Access to Telecommunications Services,	)	
Telecommunications Equipment, and	)	
Customer Premises Equipment by	)	
Persons with Disabilities	)	

REPLY COMMENTS OF SPRINT CORPORATION

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TABLE OF CONTENTS

SUMMARY

As the leading provider of telecommunications relay services in the United States, Sprint has been at the forefront of meeting telecommunications needs of its deaf, hard-of-hearing, late-deafened adult, and speech disabled customers. Sprint intends to continue to play a major role in the provision of services and products to those in the disabled community and, therefore, is committed to working with the Commission to implement Section 255. However, certain of the proposals put forth in this docket trouble Sprint. A review of the initial comments submitted in this matter reflects that many parties share Sprint's concerns.

First, the Commission must be clear that enhanced or information services do not fall within the scope of Section 255. Congress made a distinction between telecommunications services and enhanced services in the Act and thus it cannot be assumed that the failure of the specific inclusion of enhanced services in the language of Section 255 was some sort of Congressional oversight. Enhanced services are not part of Section 255 and cannot be made so by regulatory fiat.

Next, Sprint sells branded wireline and wireless equipment, yet is not the manufacturer of that equipment. Accordingly, Sprint does not have total control over the final product. For this reason, Sprint believes that, with respect to responsibility for accessibility, it should be the manufacturer or final assembler – not the retailer - that should be the responsible party.

Sprint, along with most other commenters, believes the Commission's five-day "fast track" complaint process is not workable. Sprint joins other commenters in suggesting that it would be more beneficial to the consumer to allow a respondent to conduct a reasonable investigation into a complaint in an effort to resolve the matter without the need for formal Commission intervention. Sprint asserts that a thirty-day time frame is reasonable to complete an initial investigation and report on a complaint.

Finally, Sprint urges the Commission not to accept the Access Board's "receive amplification" guideline. The Commission's current requirement allows more than 12dB of amplification where needed, while controlling feedback and distortion. The guidelines adopted by the Access Board, however, will result in products that would produce excessive loudness and distortion, which would tend to produce unacceptable levels of feedback.

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REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint") hereby respectfully submits its reply to the comments filed June 30, 1998 in this matter.

Introduction

As Sprint stated in comments filed earlier in this docket, it is in full support of the impetus behind Section 255 of the Telecommunications Act of 1996. Americans with disabilities must have available to them the basic telecommunications services and equipment that have become an essential part of everyday life. As the leading provider of telecommunications relay services ("TRS") in the United States, Sprint has been at the forefront of meeting the telecommunications needs of its deaf, hard-of-hearing, late-deafened adult and speech disabled customers. Sprint intends to continue to play a major role in the

provision of services and products to those in the disabled community to meet their communications needs.

It is, of course virtually impossible for the Commission to craft guidelines for the provision of products and services that are acceptable to all interested parties. This point was brought home by the comments offered by the Cellular Phone Task Force (at p. 4) which demanded that "...no technology used to provide services, or by manufacturers to make equipment, for the purpose of accommodating one type of disability, should be permitted if it thereby discriminates against another type of disability." The example offered in support of this argument was the use of microwave technology in devices placed on public telephones to assist the hearing impaired. These same devices, it is argued, discriminate against electrically sensitive people and thus should be prohibited.

As this one situation illustrates, there are multitudes of interests competing for the Commission's attention in this matter. The Commission cannot accommodate them all and clearly Section 255 does not require the Commission, or for that matter, carriers or equipment providers, to do so. What it must do, therefore, is focus on the plain language of the statute and follow the direction laid down by Congress.

I. Information or Enhanced Services are not Covered by Section 255 of the Act.

Not surprisingly, representatives of the disabled community continue to insist that enhanced services fall under the Section 255 umbrella. These commenters argue vehemently that Congress certainly must have intended the inclusion of voice mail, Internet access and interactive voice response units to be among the services to which the disabled are guaranteed access. The difficulty with such an argument is that, as several carriers and equipment providers have explained, the language of the statute is clear and that enhanced services are not among those for which provisions have been made.

It is not necessary for Sprint to restate here what has already been outlined repeatedly in the comments. Nor is it necessary to again debate the Commission's own precedent regarding the treatment of enhanced services. All that is required – even permitted -- is a review of Section 255, since the Commission, as a creature of statute itself, may only act in the manner permitted by the legislation.

Sprint understands the desire behind the arguments in favor of interpreting Section 255 to include enhanced services. However, the plain fact that these services were not provided for in the legislation cannot be erased by such desires. It was Congress itself that made a distinction between the types of services subject to the regulatory tenets of the Act. Specifically, Congress defined

certain terms that appear throughout the legislation, among them, of course, "telecommunications service" and "enhanced service." Because the Act distinguishes between these two services, the Commission cannot assume that the failure of the specific inclusion of "enhanced services" in the language of Section 255 was some sort of Congressional oversight.

Some commenters have argued that it is impossible that Congress would have intended for Section 255 to cover only telecommunications services. The National Association of the Deaf ("NAD") argues that "the FCC established the need to encourage competition as the primary, if not the only reason for excluding information services from its definition of telecommunications" (NAD at p. 12); that "Section 255.. .created *new* regulatory obligations for service providers" (NAD at p. 13) (emphasis in original); and that accordingly, that the pro-competitive goals of the Act have no place in Section 255 (NAD at p. 14). NAD is incorrect. Nothing in Section 255 suggests that Congress intended to exempt Section 255 from the pro-competitive goals of the Act. To the contrary, competition is the best way to ensure that the communications needs of the disabled community are met. This is clearly demonstrated in the provision of TRS services where competitive pressures drive TRS providers to continuously offer better and more creative services. Regulation does not provide those same incentives. Congress was well aware of this fact and clearly intended competition to advance Section 255-type services in the same way other pro-

competitive measures in the Act will promote opportunities for basic local exchange services. Enhanced services are not a part of Section 255 and cannot be made so by regulatory fiat.

II. The Manufacturer or Final Assembler, not the Retailer, is Responsible for the Accessibility of its Equipment.

Many commenters are troubled by the Commission's proposal to treat a distributor or retailer of products as though it were the manufacturer of the product and thus responsible for accessibility efforts. Sprint shares their concern.

Sprint sells "branded" wireline and wireless telephones through its local division business offices, as well as in retail outlets such as Radio Shack and Sprint PCS stores. Sprint does not, however, manufacturer the phones, either via an affiliate or by direct contract. In spite of this fact, under the Commission's proposed rule, Sprint may have legal responsibility for the accessibility of the equipment. Sprint asserts that such an outcome would be most inappropriate.

The flaw in the Commission's reasoning seems to be rooted in its assumption that the brand owner has total control over the product line bearing its name. Unfortunately, such is not the case. Sprint does, of course, maintain wireline telephone technical specification requirements that address both network compatibility and human factor-type issues. As a practical matter, however, Sprint finds it impossible to find products meeting all of its requirements. The realities of the marketplace make it necessary to negotiate those requirements and accept products that meet as many Sprint standards as